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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition of the Association for Local	)	CC Docket No. 98-78
Telecommunications Services (ALTS) for a	)	
Declaratory Ruling Establishing Conditions	)	
Necessary to Promote Deployment of Advanced	)	
Telecommunications Capability Under Section	)	
706 of the Telecommunication Act of 1996	)	

ERRATUM TO
COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation (MCI) hereby files this Erratum to its Comments in the above-captioned proceeding. MCI inadvertently omitted the attachment, a copy of its Reply Comments in CC Docket Nos. 98-11, 98-26, 98-32, to its Comments filed yesterday, June 18, 1998. This erratum will not materially affect the ability of the parties to reply to MCI's Comments in this proceeding. Most, if not all, parties to this proceeding are also parties in CC Docket Nos. 98-11, 98-26, 98-32.

Respectfully submitted,

MCI Telecommunications Corporation

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Dated: June 19, 1998

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COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI TELECOMMUNICATIONS CORPORATION

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Dated: June 18, 1998

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Before the
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In the Matter of	)	
	)	
Petition of the Association for Local Telecommunications Services (ALTS) for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunication Act of 1996	)	CC Docket No. 98-78

COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation (MCI) hereby submits its comments in support of the above-captioned petition filed by the Association for Local Telecommunications Services (ALTS).[1] MCI strongly urges the Commission to grant the relief requested therein.

ALTS correctly argues that the Commission must reaffirm that section 251 applies to the ILECs' bottleneck facilities in order to permit CLECs to provide traditional local and advanced capabilities and services.[2] So long as ILECs retain control of the local loop and other essential facilities, aggressive enforcement of sections 251 and 271 will be critical to the facilitation of local competition. As MCI emphasized in its opposition and reply comments in response to the petitions filed by Bell Operating Companies (BOCs) Bell Atlantic Corporation, U S West

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[1] Petition of the Association for Local Telecommunications Services for a Declaratory Ruling, CC Docket No. 98-78, filed May 27, 1998 (ALTS petition).

[2] 47 U.S.C. § 251; see also Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 98-96 at ¶ 380 (rel. Aug. 8, 1996) (Local Competition Order).

Communications, Inc., and Ameritech Corporation,[3] the existence of competition is the only way to effectively and rapidly deploy advanced capabilities. Enforcing the interconnection, collocation, unbundling and pricing requirements of section 251, and the in-region interLATA restrictions set forth in section 271, represents the most efficient means of facilitating the development of local competition. Proper enforcement of these sections will in turn facilitate the realization of the goals set forth in section 706. With nondiscriminatory access to all unbundled or combined network elements,[4] CLECs can compete to provide broadband services to businesses and residences consistent with the Act's paradigm of providing new entrants with alternative ways to enter local markets.

I. CONTINUED ENFORCEMENT OF SECTIONS 251 AND 271 IS NECESSARY TO FACILITATE LOCAL COMPETITION IN TRADITIONAL LOCAL AND ADVANCED CAPABILITIES

Just as CLECs need interconnection, collocation, and access to unbundled network elements at affordable rates for traditional local service, they need all of these things to deploy advanced capabilities and to provide advanced services. In the current environment, competitive carriers must, as a practical matter, rely on ILEC local loops to provide service to the vast majority of potential subscribers. If ILECs do not unbundle the local loop, they will have the ability to increase costs for customers and competitors by forcing consumers to take the ILECs'

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[3] See e.g., Reply Comments of MCI Telecommunications Corporation, CC Docket No. 98-11, CC Docket No. 98-26, CC Docket No. 32, at 3-4 filed May 6, 1998 (MCI Reply).

[4] Forcing competitors to take network elements on a disassembled basis when they are already combined in an ILEC's network imposes costs on new entrants that the ILECs would not incur, which violates the nondiscrimination requirement in section 251(c)(3). Further, such actions of the part of ILECs violate the requirements that unbundling be reasonable and cost-based.

offerings in whatever form and at whatever price the ILECs chose to develop those technologies. As MCI demonstrated in its Reply Comments to the BOCs' 706 petitions,[5] MCI and other competitors lose access to the customer and the ability to offer local services as well as end-to-end services, if the ILECs have exclusive control over and use of the equipment and conditioned loop for xDSL services. New entrants, therefore, need access to the xDSL-conditioned loop and equipment to offer viable and ubiquitous competitive DSL services. Further, CLECs need access to unbundled xDSL-conditioned loops, central offices and outside plant on reasonable and nondiscriminatory terms pursuant to section 251.

A. Section 251 Makes No Distinction between Voice and Data Services

ILECs have been staunchly resistant to complying with many of the Act's requirements. Not only are the ILECs trying to impede the development of competition for traditional local services,[6] they are now also trying to foreclose competition for advanced services by prematurely requesting regulatory forbearance from sections 251 and 271. Now that Congress has mandated that ILECs open their local markets to competition, they have attempted to create a distinction between circuit-switched technologies, which the ILECs imply are used only to provide traditional local voice service, and packet-switched technologies, which they suggest are used to provide advanced data services.[7] Such a distinction would be artificial and cannot be permitted.

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[5] MCI Reply Comments, Attachment A.

[6] MCI agrees with ALTS' description in its petition regarding the many ways in which the BOCs have failed, and continue to fail, to comply with the Act, and will not repeat them here.

[7] See e.g., Petition of Bell Atlantic Corporation for Relief from Barriers to Deployment of Advanced Telecommunications Services, CC Docket No. 98-11 at 3 and *passim*; Petition of Ameritech for Relief from Barriers to Investment in Advanced Telecommunications Capability,

Indeed, section 251 makes no distinctions between facilities used to provide voice and data services or between traditional and advanced services.

Moreover, there is no difference in the equipment that is used to provide voice or data services. Thus, there must be no limitations placed on the use of the facilities CLECs lease pursuant to section 251 based on the type of traffic that passes over the equipment. Indeed, the Commission previously observed that "section 251(c)(3) does not limit the types of telecommunications services that competitors may provide over unbundled elements to those offered by the incumbent LEC."[8] Despite the BOCs' contentions, the same bottleneck facilities -- the current local loop and local loop electronics -- are used for both voice and data traffic. Any distinction for regulatory purposes between traditional circuit-switched services and newer packet-switched technologies would not be justifiable and would lead to potential abuse by the ILECs. The net result would be the loss of consumer choice because of a baseless distinction made by the ILECs with respect to traffic.

Technological advancements continue today. For example, voice services can be carried over either circuit-switched or packet-switched networks, and these two types of networks can serve many of the same functions. Indeed, the current circuit-switched voice network has supported data transmission via analog modems and ISDN for nearly 20 years. However, the circuit-switched POTS infrastructure is no longer well-suited to meet many users' requirements for continuous and/or high-speed data transmission. Even so, the new data networks and

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CC Docket No. 98-32 at 11 (filed March 5, 1998).

[8] Local Competition Order, ¶ 381.

technologies are capable of carrying voice services.

Technologies that transmit voice over the Internet are being deployed by many carriers, including Qwest, Level 3, and IXC.[9] All of the ILECs are, under the current regulatory regime, free to deploy advanced capabilities and technologies, and many are in fact doing so. The question here is whether the ILECs should be permitted to retain monopoly control of the equipment and facilities they are deploying in the local exchanges that they dominate. If the ILECs are permitted to develop advanced capabilities not subject to the procompetitive provisions of the Act, then the consumer will suffer because he will be forced to take the ILEC offerings in whatever form and at whatever price the ILECs chose to develop those technologies. Accordingly, as happens with ILEC monopoly control over any network or service, competition for new services will be stymied, and the ILECs will control completely the development of advanced services as well as the availability of the capability for the advanced services and technologies.

All of the pieces of the advanced technology puzzle -- e.g., ADSL, ATM, and telephony -- are in place to permit the ILECs to buttress their monopoly of the local exchange networks if they are feed from the requirements of sections 251 and 271. The ILECs would like nothing more than to dominate this technology for their own monopoly gains. If the Commission grants the ILECs forbearance from the application of sections 251 and 271, the ILECs will convert their captive consumers to the new "advanced services" network, free from procompetitive regulations. The ILECs would then leave their competitors with their legacy systems that are not

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[9] *Boardwatch Magazine*, May/June, 1997.

capable of providing the same advanced services of the BOCs' newly designed network, thereby prohibiting CLECs from effectively competing in the local market.

B. New Entrants Must Have All Competitive Provisioning Options for Local Traditional and Advanced Services

Just as new entrants have options to compete to provide more traditional local services,[10] new entrants need a variety of options to compete to provide advanced services. For purposes of advanced capabilities and services, new entrants should have the ability to purchase unbundled elements used by the ILECs to provide xDSL-services, to obtain all those elements in combination or to resell the end-to-end xDSL services at wholesale rates. As competition develops, all options must be available on nondiscriminatory terms, and there is nothing in the Act that precludes such a reading. Requiring the ILECs to provide reasonable access to the capabilities within their monopoly local networks at cost-based rates could only help facilitate local competition.

Congress recognized that the ILECs have a monopoly over facilities for which there is no alternative and that CLECs need access to the facilities as a means of entering the local market. However, access to unbundled xDSL-conditioned loops alone is insufficient. Just as CLECs need to collocate equipment to concentrate voice traffic at the central office, CLECs also need to collocate xDSL equipment such as modems and splitters in order to separate the data and voice traffic to provide xDSL services. By themselves, xDSL-conditioned local loops only provide CLECs with connectivity from the central office to the customer. Obtaining collocation space from the ILECs, however, is a costly and arduous process, often with delayed or, in many

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[10] See 47 U.S.C. § 251(c)(4).

instances, no results. Current ILEC procedures for obtaining collocation space involve delayed processing of collocation requests due to claims of limited space, delays in coordinating customer cut-overs, and additional time and expense needed to construct collocation cages at all ILEC switch locations.[11]

In addition, it will not always be sufficient for ILECs simply to make unbundled xDSL-conditioned loops and collocation available. CLECs need nondiscriminatory access to the ILECs' xDSL-related equipment at cost and the ability to resell the ILEC's xDSL services. As with traditional local service, CLECs will not be able to afford to deploy equipment in every central office simultaneously. Further, in suburban and rural central offices, for example, demand for advanced services will not be large enough to justify CLEC expenditures for collocation cages and xDSL equipment. Moreover, it would be wasteful and inefficient to require each CLEC to build out collocation cages and DSL modems in thousands of ILEC central offices when sharing facilities with the ILEC would result in more efficient use of resources.[12] Accordingly, CLECs should be permitted to resell ILECs' xDSL services as set forth in the Act[13]

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[11] The BOCs and ILECs also impose excessive and unnecessary costs for collocation, such as charges for the collocation application, real estate costs, BOC/ILEC installation and maintenance charges, per-order charges and BOC/ILEC escort charges. These costs are in addition to the internal costs to CLECs, which include but are not limited to, facility support costs, cage costs, CLEC installation costs, cables, systems development. MCI has requested that the Commission ensure that the BOCs' and ILECs' collocation practices be reformed in order that CLECs have access to collocation cages sufficient to provide service throughout residential and business areas. The BOCs'/ILECs' refusal to allow CLECs to collocate xDSL equipment, or assessment of excessive collocation charges, is tantamount to a denial of access to xDSL-conditioned loops.

[12] See e.g., Local Competition Order, ¶ 441.

[13] See 47 U.S.C. § 251(c)(4).

-- separately and without any restrictions or requirements to combine xDSL services with any other publicly-available services such as frame relay or ATM services -- in the event the CLECs opt not to lease unbundled network elements and equipment or collocate in a BOC or an ILEC central office.[14]

Maintaining the central provisions and regulations of the Act that prevent ILEC monopolization of networks and services is as important for advanced capabilities and services as it is for traditional circuit-switched technologies. The procompetitive provisions of the Act do not distinguish between ILEC provision of services on a packet-switched versus circuit-switched basis. Even some advanced data services are provided over the same monopoly LEC loops as circuit-switched voice services. To accept a distinction that would create an unworkable system would permit the ILECs to buttress their monopoly of the local exchange networks through unregulated control of xDSL and other new network upgrades.

II. THE COMMISSION LACKS AUTHORITY TO FORBEAR FROM APPLICATION OF THE PROCOMPETITIVE REQUIREMENTS OF THE ACT

MCI agrees fully with ALTS's position that the Commission must not forbear from applying the requirements of sections 251 and 271 so as to encourage the deployment of advanced capabilities.[15] Rather, as ALTS explains, the Commission should enforce such procompetitive obligations, as they are the "cornerstone" of local competition.[16] More

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[14] Resold xDSL services would permit CLECs to advertise and serve a wider percentage of subscribers so that new entrants would not be limited to subscribers served by a particular central office where the CLEC is collocated.

[15] See ALTS Petition at 32-36.

[16] Id. at 11.

importantly, as ALTS contends, the Commission lacks authority to forbear from applying the procompetitive requirements of sections 251 and 271 until they have been fully implemented.[17]

Section 706 is not an independent grant of forbearance authority. Rather, it merely refers to the Commission's forbearance authority contained in section 10 of the Act, which addresses regulatory forbearance and its applicable limitations. As BellSouth has correctly stated, section 706(a) is a "policy statement" that requires the Commission "to encourage the deployment of advanced service by utilizing *existing* regulatory authority to remove barriers to infrastructure investment."[18] (emphasis added). In section 10(d), Congress laid out specific limitations on the Commission's forbearance authority. Nothing in section 706 indicates that Congress intended this provision to override those limits in section 10(d).[19]

Any argument that section 706 is an independent grant of forbearance authority to the Commission conflicts with well-established principles of statutory interpretation. A statutory provision should not be interpreted in such a manner as to render other related provisions

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[17] Id. at 32-36.

[18] See Reply Comments of BellSouth, In the Matter of Alliance for Public Technology Request for Notice of Inquiry and Notice of Rulemaking to Implement Section 706 of the 1996 Telecommunications Act, RM-9244, File No. CCB/CPD 98-15 (filed April 13, 1998).

[19] Section 10 demonstrates that where Congress did intend to override specified limits on forbearance authority, it did so expressly. For example, section 332(c)(1)(A) provides that the Commission could forbear from enforcing most regulations against mobile carriers but prohibited it from forbearing to enforce specified requirements (sections 201, 202 and 208). In section 10, Congress expressly overrode those limitations by stating "[n]otwithstanding Section 332(c)(1)(A) of this title, the Commission shall forbear from applying any regulations or any provisions of this chapter . . . ." 47 U.S.C. § 160(a). Section 706, however, does not similarly contain such a statement signifying independent forbearance authority.

meaningless or superfluous.[20] In Greenpeace, Inc., v. Waste Technologies Indus., 9 F.3d 1174 (6th Cir. 1993), the court stated that congressional intent cannot be discerned "by reading an isolated subsection . . . without reference to other related provisions." 9 F.3d at 1179. Further, the court held that terms cannot be interpreted "in a manner that renders other provisions of the same statute inconsistent, meaningless, or superfluous." *Ibid.*

Any interpretation of section 706 as an independent grant of forbearance authority conflicts with the principles of statutory construction because it is inconsistent with the overall structure of the Act.[21] Indeed, if Congress intended for section 706 to trump all other provisions in the Act, including the regulatory forbearance limitations set out in section 10, then section 706 would trump the limitations in the pricing provisions that the Eighth Circuit inferred, and the Commission should exercise its power to require cost-based pricing of xDSL-related network elements and equipment.[22] Congress, however, included the strict limitations in section 10(d) to control the types and degrees of forbearance afforded to the BOCs, to ensure that the requirements of sections 251 and 271 are not subverted or diminished prior to the BOCs meeting

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[20] See Mackey v. Lanier Collections Agency & Serv., 486 U.S. 825, 837 (1988); Mail Order Ass'n of Am. v. United States Postal Serv., 986 F.2d 509, 515 (D.C. Cir. 1993); see also Gustafson v. Alloyd Co., Inc., 115 S. Ct. 1061, 1069 (1995) ("[T]he Court will avoid a reading which renders some words altogether redundant.").

[21] See generally Tataronowicz v. Sullivan, 959 F.2d 268, 276 (D.C. Cir 1992) ("[C]ongressional intent can be understood only in light of the context in which Congress enacted a statute and the policies underlying its enactment.")

[22] See Iowa Utilities Bd. v. FCC, No. 96-3321, 1998 U.S. App. LEXIS 1043 (8th Cir. Jan. 22, 1998) (writ of mandamus granted); Iowa Utilities Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), amended on reh'g, 1997 U.S. App. LEXIS 28652 (8th Cir. Oct. 14, 1997), cert. granted, 118 S. Ct. 879 (1998).

those statutory conditions set forth in either section. Accordingly, the Commission should interpret section 706 in light of its purpose and the overall structure of the Act, refusing to grant forbearance from the requirements of sections 251 and 271 -- as mandated by Congress -- until it determines that such requirements have been fully implemented.

MCI is not asking the Commission to ignore section 706's important policy preference for the deployment of advanced telecommunications "to all Americans, (including, in particular, elementary and secondary schools and classrooms)." 47 U.S.C. § 706(a). To the contrary, MCI believes that the best way to encourage widespread availability of advanced telecommunications capability is to enforce sections 251 and 271, applying the strict limitations contained in section 10, as written so that competition develops at the local level. Section 271, for example, is a particularly appropriate vehicle for the Commission to further the goals of section 706. In evaluating the BOCs' 271 applications, both the Commission and state commissions can review the applications with a view towards assessing whether the BOCs' have taken necessary steps to facilitate competitive entry into the traditional local and advanced services market, such as whether the BOC provides access to xDSL-conditioned loops and equipment at forward-looking, cost-based rates.

CONCLUSION

For the foregoing reasons, MCI urges the Commission to grant expeditiously the relief set forth in the ALTS petition.

Respectfully submitted,

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Dated: June 18, 1998

CERTIFICATE OF SERVICE

I, Mellanese Farrington, hereby certify that on this 18th day of June 1998, I served by first-class United States Mail, postage prepaid, a true copy of the foregoing Comments, upon the following:

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ATTACHMENT A

Before the
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In the Matter of	)	
	)	
Petition of Bell Atlantic Corporation	)	CC Docket No. 98-11
for Relief from Barriers to Deployment	)	
of Advanced Telecommunications Services	)	
	)	
Petition of U S WEST Communications, Inc.	)	CC Docket No. 98-26
for Relief from Barriers to Deployment of	)	
Advanced Telecommunications Services	)	
	)	
Petition of Ameritech Corporation	)	CC Docket No. 98-32
to Remove Barriers to Investment in	)	
Advanced Telecommunications Capability	)	

REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

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Dated: May 6, 1998

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of Advanced Telecommunications Services	)	
	)	
Petition of U S WEST Communications, Inc.	)	CC Docket No. 98-26
for Relief from Barriers to Deployment of	)	
Advanced Telecommunications Services	)	
	)	
Petition of Ameritech Corporation	)	CC Docket No. 98-32
to Remove Barriers to Investment in	)	
Advanced Telecommunications Capability	)	

REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation (MCI) submits its reply comments to the above-captioned petitions, filed by Bell Operating Companies (BOCs) Bell Atlantic Corporation (Bell Atlantic or Petitioner), Ameritech Corporation (Ameritech or Petitioner), and U S WEST Communications, Inc. (US West or Petitioner).

I. INTRODUCTION AND SUMMARY

In their petitions, the BOCs seek broad forbearance from the application of existing rules and regulations, alleging that such forbearance is the incentive they need to deploy broadband technologies and provide broadband capabilities. The BOCs argue that if they are permitted to build an interLATA broadband network, including the backbone as well as the local loops, unfettered by Local Access and Transport Area (LATA) restrictions and requirements to provide competitors nondiscriminatory access to elements of that network, they would solve an alleged backbone congestion problem and speed the deployment of broadband technology and

capabilities. MCI, as well as most commenters in this proceeding, believes the BOCs' requests are inappropriate. The problem is not with the backbone, but with the BOCs' bottleneck control over the local loop.

The commenting parties are in general agreement that granting the BOCs' petitions will not lead to innovation and the deployment of advanced capabilities, but rather, would stifle such deployment. Competition is the only way to effectively and rapidly deploy advanced capabilities. As Chairman William Kennard and Commissioner Gloria Tristani stated in recent speeches, so long as the BOCs have bottleneck control over the local loop, which extends into the vast majority of American households and most businesses, competitors must have access to the BOCs' facilities.[1] In the end, if the BOCs are permitted to deny use of their networks to competitors, they will be allowed to control the terms and conditions under which advanced capabilities will be deployed.

The necessary connection between competitive providers of advanced capabilities and the consumers of such capabilities cannot occur without access to the BOCs' local loop bottleneck. Unless the competitive provisions of the Act are fully implemented, the same bottleneck that led the courts to order divestiture in 1984 and motivated Congress to include an array of pro-competitive provisions in the Telecommunications Act of 1996 ("Act") will be used by the BOCs to undermine broadband competition. As history has demonstrated, access to the

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[1] As Chairman Kennard stated, the Commission must be " . . . confident all competitors will have the same quality of access to the existing copper loops owned by the incumbents . . .;" Kennard Speech at 4; similarly, Commissioner Tristani stated that "[l]oop management [is] an area where competitors will be fairly reliant on the incumbent." Gloria Tristani, Commissioner, Federal Communications Commission, Remarks of Commissioner Gloria Tristani before the U S WEST Regional Oversight Committee, at 3 (April 27, 1998).

customer is central to competitive environment. Innovation increased dramatically when competitors were allowed to provide long distance services and customer premises equipment; so will broadband innovation be fostered when all providers have the same access to customers and customers have the same access to all providers.

Congress, when enacting the Act, recognized that no new entrant could duplicate the incumbent local exchange network in a short period of time. It reasoned that facilities-based competition would take time to develop and would evolve if new entrants were able to rely on the use of unbundled and combined incumbent local exchange carrier (ILEC) network elements and resale of ILEC retail services. During that period CLECs could cultivate enough demand to invest in and expand their own facilities. The competitive rationale contemplated within provisions of the Act holds true for the provision of broadband capabilities as for traditional local services. MCI therefore encourages careful examination of the issues raised in the BOCs' petitions.[2] The Commission's inquiry should focus on how best to foster innovation, not on whether to forbear from regulating monopoly providers.

II. STRICT ENFORCEMENT OF THE UNBUNDLING AND RESALE REQUIREMENTS IN SECTION 251 IS NECESSARY BECAUSE OF THE BOCS' BOTTLENECK CONTROL OVER THE LOCAL LOOP

Nondiscriminatory access to the BOCs' local loops is the primary means for ensuring that competitive providers of local and advanced capabilities are able to reach subscribers. For new

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[2] As Chairman Kennard recently stated, section 706 is "intended to promote the deployment of advanced telecommunications infrastructure to all American." See William E. Kennard, Chairman, Federal Communications Commission, Remarks to USTA's "Inside Washington Telecom" at 3 (April 27, 1998) (Kennard Speech).

entrants to be viable providers of xDSL[3] capabilities, and not simply niche providers who will be unable to offer alternatives to many of its customers, the unbundling, pricing and resale provisions of the Act must be fully applied. New entrants must have access to the same network elements, such as conditioned loops and xDSL equipment, that the BOCs use when they provide xDSL service to their own end user customers.[4] With nondiscriminatory access to all unbundled or combined network elements,[5] CLECs can compete to provide broadband services and capabilities to businesses and residences consistent with the Act's paradigm of providing new entrants with alternative ways to enter local markets.

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[3] xDSL is a family of digital subscriber line technologies that allow for the provision of broadband services over properly conditioned copper lines. One of the technologies, HDSL, is already widely deployed for the provision of T1 services and other business applications. Another technology, ADSL, is being developed for mass market applications.

[4] An unbundled xDSL-conditioned loop is an unbundled local loop that is free of load coils and excessive bridge taps. Carriers use loading coils to increase voice service quality in rural and suburban areas approximately every 6,000 feet -- although some load coils can be as close as 3,000 feet -- from the central office switch. Bridge taps are unused branches of a copper loop that do not interfere with voice transmission quality, but limit the effectiveness of xDSL services by introducing extra resistance and reflecting the data signal. Loading coils and bridge taps are features of the BOC network that limit the effectiveness of xDSL services.

[5] Although Bell Atlantic and other ILECs agreed to combine network elements for CLECs, after the Eighth Circuit invalidated section 51.315(b) of the Commission's rules, the petitioners and other ILECs immediately petitioned state commissions to be relieved of their obligation to combine elements even though nothing in the Eighth Circuit decision prevents the ILECs from combining elements or leaving them combined. Forcing competitors to take network elements on a disassembled basis when they are already combined in an ILEC's network imposes costs on new entrants that the ILECs do not incur, which violates the nondiscrimination requirement in section 251(c)(3). MCI is confident that the Supreme Court will reverse the Eighth Circuit decision. See Iowa Utilities Bd. v. FCC, No. 96-3321, 1998 U.S. App. LEXIS 1043 (8th Cir. Jan. 22, 1998) (writ of mandamus granted); Iowa Utilities Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), amended on reh'g, 1997 U.S. App. LEXIS 28652 (8th Cir. Oct. 14, 1997), cert. granted, 118 S. Ct. 879 (1998).

Section 251 applies to the BOCs' facilities because Congress recognized that the BOCs have a monopoly over network facilities that CLECs need access to in order to enter the local market. New entrants need a variety of options to compete to provide advanced capabilities, just as they have a variety of options to compete to provide more traditional local services. CLECs have a natural incentive to choose the option that minimizes their dependence on their competitor, the ILEC. For that reason and as Congress has recognized, while competition develops, all options for providing local service must be available on reasonable and nondiscriminatory terms.

BOC control of the local loop creates the greatest impediment to the development of competition for xDSL services.[6] CLECs are already entitled to these conditioned loops despite the BOCs' contentions to the contrary.[7] Despite these express requirements by the Commission, in many instances, the BOCs have been unwilling to grant access to xDSL-conditioned unbundled local loops.[8] The necessary conditioning of the local loop serviced with DSL

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[6] See DSL Access Telecommunications Alliance (DATA) Comments, CC Docket Nos. 98-11, 98-26, 98-32 at 11 (filed April 6, 1998); see also COVAD Communications Comments, CC Docket Nos. 98-11, 98-26, 98-32 at 8-11 (filed April 6, 1998).

[7] The Commission has mandated that the BOCs and other incumbent LECs unbundle local loops, which are defined to include two-wire and four-wire analog and voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, and HDSL. Further, if the BOCs' unbundled loops are not conditioned for xDSL or other services, the BOCs are required "to take affirmative steps to condition existing loop facilities to enable requesting carriers to provide services." *Id.* at ¶ 382.

[8] See e.g., COVAD Comments at 8; DATA Comments at 9; Comments of AT&T Corp., CC Docket Nos. 98-11, 98-26, 98-32 (filed April 6, 1998); Opposition of WorldCom, Inc., CC Docket Nos. 98-11, 98-26, 98-32 (filed April 6, 1998). MCI has also met with staunch opposition by the BOCs to requests for xDSL-conditioned loops and is in the process of negotiating with the BOCs to obtain such loops.

equipment enables the BOCs to control access to, as well as the quality and cost of, these conditioned loops available for CLECs.[9]

Access to unbundled xDSL-conditioned loops alone is insufficient to ensure competition in the provision of advanced capabilities. Just as CLECs may choose to collocate equipment to concentrate voice traffic at the central office, CLECs must also have the ability to choose to collocate xDSL-related equipment, such as modems and splitters required to separate the data and voice traffic, at an ILEC's central office to provide xDSL services.[10] Such collocation of xDSL equipment must be available on reasonable, nondiscriminatory terms and conditions. By themselves, xDSL-conditioned local loops only provide CLECs with connectivity from the central office to the customer. Obtaining collocation space from the ILECs, however, is a costly and arduous process, often with delayed -- or, in many instances, no -- results.[11]

Current ILEC procedures for obtaining collocation space involve delayed processing of requests due to claims of limited space, delays in coordinating customer cut-overs, and additional

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[9] ILECs are using integrated digital loop carrier (IDLC) technology, which allows aggregation and multiplexing of local loop traffic at a remote concentration point. The Commission has required ILECs to provide competitors access to unbundled loops whether or not the ILEC uses IDLC. (Local Competition Order at ¶ 383). xDSL technology can be used with copper and IDLC loops. CLECs should therefore be permitted to interconnect with ILECs at the feeder distribution interface to employ IDLC.

[10] Of course, MCI believes that collocation should not be required, but CLECs should have the option to collocate xDSL-related equipment at an ILEC's central office, especially in circumstances where collocation is the most efficient or viable way for a CLEC to provide xDSL-related services and capabilities.

[11] As DATA and COVAD accurately note, collocation is a significant barrier to deployment of DSL technologies because of alleged severe space limitations. DATA Comments, CC Docket Nos. 98-11, 98-26, 98-32, at 9-10; COVAD Comments, CC Docket Nos. 98-11, 98-26, 98-32 at 13-14.